

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROD BITNEY**, on February 10, 2003 at 3:15 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Alan Olson, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Eileen J. Carney (D)
Rep. Tim Dowell (D)
Rep. Hal Jacobson (D)
Rep. Scott Mendenhall (R)
Rep. John Parker (D)
Rep. Diane Rice (R)
Rep. Brennan Ryan (D)
Rep. Jim Shockley (R)

Members Excused: Rep. Daniel Fuchs (R)
Rep. Jeff Laszloffy (R)

Note: Rep. Tim Dowell left during executive action.

Members Absent: None.

Staff Present: Glenna McClure, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 509, 2/7/2003
Executive Action: HB 337; HB 373; HB 417; HB 131

HEARING ON HB 509

{Tape: 1; Side: A; Approx. Time Counter: 3 - 6}

Sponsor: REPRESENTATIVE ALAN OLSON, HD 8

Opening Statement by Sponsor:

REP. OLSON said that HB 509 is the new and improved energy bill for this session. HB 509 defines "customer" and "electricity supply costs" and it provides for rulemaking authority. The term "transmission" is changed to read "stranded costs." This is being call a consensus bill. There were many meetings of folks on both sides who worked on drafting this bill. He said that he felt that they could address the concerns of the opponents.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 6 - Tape: 1; Side: B; 5.5}

Bob Rowe, Public Service Commission, provided his written testimony.

EXHIBIT (feh29a01)

Tom Schneider, Public Service Commission, provided his written testimony.

EXHIBIT (feh29a02)

Matt Brainard, Public Service Commission, District 4, said that he is in support of HB 509 and agreed with the other proponents.

Greg Jergeson, Public Service Commission, District 1, said that he agreed with previous proponents.

Ed Eaton, AARP volunteer, said that they participated in the consensus group in the creation of HB 509. They are in support of the bill as it is without amendments.

Debbie Smith, Natural Resources Defense Council/Renewable Northwest Project, said that they also participated in the collaboration that was done to draft this bill. They support it in its current form. She urged the committee to pass this bill.

Bob Nelson, Montana Consumer Council, said that his agency appreciated the work done by those who got together to draft this bill. He recommended a do pass.

Betty Whiting, Montana Association of Churches, said that their concerns with this bill is with the low income customers. She said that they support the extension of the Universal Benefits System. This bill also provides for choice for persons wishing to access other forms of energy.

Patrick Judge, Montana Environmental Information Center (MEIC), provided written testimony.

EXHIBIT (feh29a03)

Con Malee, Energy West Resources, Great Falls, said that they have also been an active participant in the collaborative efforts regarding this bill. He offered that the bill be amended to eliminate the limitation on size so all commercial class customers are free to choose a supplier.

Don Quander, Smurfitt Stone Container Corpartion and Holcim, Inc., said that they support this bill in its current form. He said that they would be concerned if significant changes were made.

Ron Perry, President, Commercial Energy of Montana, Cut Bank, said that he is a proponent of the bill. This bill allows, but does not compel, customers to choose.

Marti Bara, Vice-President, Montana Innkeepers Association, said that they support this bill with the amendment that Con Malee brought up earlier.

Rachel Haberman, Energy Share of Montana, provided written testimony. She distributed a flyer that addressed the 2001-2002 Annual Report of Energy Share of Montana. She also distributed additional information on Energy Share.

EXHIBIT (feh29a04)

EXHIBIT (feh29a05)

EXHIBIT (feh29a06)

EXHIBIT (feh29a07)

Pat Corcoran, Vice President, Regulatory Affairs, Northwestern Energy (NWE), said that he stands in support of this bill on behalf of NWE. This bill provides protection for small

consumers, provides affordable power, stable rates, and long-term certainty.

Matt Leow, Montana Public Interest Research Group (MontPIRG), said that he stands in support of HB 509 for many of the reasons previously stated.

Opponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 5.5 - Tape: 2; Side: A; 2.9}

Jay Stovall, Public Service Commission, District 2, said that he felt that this is not a consensus bill. He distributed a packet of information. He explained why he was in disagreement with this bill. He said that eventually there will be only one company in control of all power. He said that this bill is too complex. It will be too difficult for companies to meet all of the requirements in this bill. He encouraged the committee to kill this bill.

EXHIBIT (feh29a08)

David Hoffman, PPL, Montana, provided written testimony. He also provided suggested amendments.

EXHIBIT (feh29a09)

EXHIBIT (feh29a10)

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 2.9 - 9.2}

John Bushnell, Economist for the Northwest Power Planning Council, Governor's Office, said that their interest is in protecting the small power supply customers of NWE. They are generally in support of the bill. This bill provides some measure of protection for small customers.

John Alke, Lawyer, Montana Dakota Utilities (MDU), said that MDU has been exempted from the mandatory restructuring law. He said that PPL amendment would attempt to put the language back into the bill that would repeal MDU's exemption.

Ed Sondeno, Montana State University, Bozeman, Facilities Services Office, said that they have a concern in the size of the default supply service tariff. He distributed proposed amendments.

EXHIBIT(feh29a11)

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 9.2 - Tape: 2; Side: B; 2.1}

REP. DOWELL asked Commissioner Rowe if this bill would change review by the Public Service Commission with regard to the co-ops.

Mr. Rowe said that it would not change.

REP. PARKER asked about choice opportunities by small consumers and if there are pilot programs.

Mr. Rowe said that there is provision for small customers.

REP. PARKER asked if the PSC could create incentives for people to develop new models.

Mr. Rowe said that by providing stability it promotes companies to apply energy to their business plans rather than to regulatory issues.

REP. PARKER asked what mechanisms were in place to protect customers from higher rates.

Mr. Rowe said that this bill eliminates the 2007 sunset and gives NWE direction for long-term contracts.

REP. PARKER asked if the PSC could draft an analysis of what the amendments would do.

Mr. Rowe said that they would.

REP. SHOCKLEY asked Mr. Brainard if the amendments would make it harder for PPL.

Mr. Brainard said that there are other options in legislature that would deny customer choice. He said that he feels that this bill preserves customer choice.

REP. SHOCKLEY asked if is more likely that there will be another big provider to compete with PPL if this bill is passed.

Mr. Brainard said that he didn't think this bill influences that.

REP. MENDENHALL asked Mr. Rowe to expand on how passage of HB 509 would affect the development of wind energy.

Mr. Rowe said that the commission does not have direct involvement in supply development. There are things in this bill that make wind development more viable.

REP. MENDENHALL asked how the provisions in HB 509 will be affected by repealing the Public Utility Regulatory Act (PURPA) in HB 417.

Mr. Rowe said that under PURPA, those resources would be eligible for a short-term rate. Under PURPA there is a specific RFP (Request for Proposal) for wind.

REP. MATTHEWS asked Mr. Alke about the concerns of the MDU exemption.

Mr. Alke said went over the PPL amendments. He said that language in the bill makes it clear that MDU is exempted. On page 7, line 22, was specifically put in the bill by request of MDU and is being taken out by PPL.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 2.1 - 8.7}

REP. OLSON said that this bill does not preclude choice. The need for preapproval is not in this bill because it is included in other bills before legislature. This bill provides protection for small consumers. It allows for the ability of all classes of consumers to have choice in power providers and adds the choice of renewables. It extends USB to 2005. It eliminates the Electrical Utility Restructuring Transition Advisory Committee. He agreed with Mr. Bushnell in that we need stability. It is extremely important to all customers. He urged the committee give this bill a do pass recommendation.

EXECUTIVE ACTION ON HB 337

{Tape: 2; Side: B; Approx. Time Counter: 8.7 - Tape: 3; Side: A; 7.7}

Motion: **REP. DOWELL** moved that **HB 337 DO PASS.**

Motion: **REP. DOWELL** moved that **HB 337 BE AMENDED.**

EXHIBIT (feh29a12)

Discussion:

REP. DOWELL said that he met with the house movers and the utility companies to develop the amendments. There were areas that were not agreed upon, but he said that he felt they were fair. He went over the specifics of the amendments.

Mary Vandenbosch indicated that the amendment actually is the entire bill.

There was some discussion on the height of the lines.

Vote: Motion carried 12-2 with REPRESENTATIVES BROWN and FUCHS voting no.

Discussion:

REP. BROWN proposed a conceptual change to the amendments to raise the height to 35 feet from 23 feet.

REP. SHOCKLEY asked a member of the house moving industry what percentage of his moves are affected by the 23 foot height.

Mr. Tamietti said that 23 feet is just where their moves start. Most lines are lower than 23 feet.

Motion/Vote: REP. BROWN moved that CONCEPTUAL AMENDMENT TO HB 337 DO PASS. Motion failed 2-10 with REPRESENTATIVES BROWN AND SHOCKLEY voting aye by roll call vote. REPRESENTATIVES LASZLOFFY AND RICE were absent for this vote.

Motion/Vote: REP. DOWELL moved that HB 337 DO PASS AS AMENDED. Motion carried 11-1 with REPRESENTATIVE BROWN voting no. REPRESENTATIVES LASZLOFFY AND RICE were absent for this vote.

EXECUTIVE ACTION ON HB 373

{Tape: 3; Side: A; Approx. Time Counter: 7.7 - Tape: 3; Side: B; 9.8}

Motion: REP. OLSON moved that HB 373 DO PASS.

Motion/Vote: REP. OLSON moved that HB 373 BE AMENDED. Motion carried unanimously. REPRESENTATIVES DOWELL, LASZLOFFY, AND RICE voted by proxy.

EXHIBIT(feh29a13)

Motion: REP. PARKER moved that HB 373 BE AMENDED.

EXHIBIT(feh29a14)

Discussion:

There was discussion and the committee decided to vote on separate parts of this amendment. These amendments failed as follows:

Vote: Numbers 1 and 3 failed 5-9 with REPRESENTATIVES CARNEY, DOWELL, JACOBSON, PARKER, and RYAN voting aye by roll call vote. REPRESENTATIVES DOWELL, LASZLOFFY, AND RICE voted by proxy.

Vote: Numbers 2 and 4 failed 6-8 with REPRESENTATIVES CARNEY, DOWELL, JACOBSON, PARKER, RYAN, and SHOCKLEY voting aye by roll call vote. REPRESENTATIVES DOWELL, LASZLOFFY AND RICE voted by proxy.

Motion/Vote: Rep. Olson moved that HB 373 DO PASS AS AMENDED (EXHIBIT 13). Motion carried 9-5 with REPRESENTATIVES CARNEY, DOWELL, JACOBSON, PARKER, and SHOCKLEY voting no. REPRESENTATIVES DOWELL, LASZLOFFY AND RICE voted by proxy.

EXECUTIVE ACTION ON HB 417

{Tape: 3; Side: B; Approx. Time Counter: 9.8 - 18.8}

Motion: REP. OLSON moved that HB 417 DO PASS.

Motion/Vote: REP. BITNEY moved that HB 417 BE AMENDED. Motion carried unanimously.

EXHIBIT(feh29a15)

Motion/Vote: REP. OLSON moved that HB 417 BE AMENDED. Motion carried unanimously.

Discussion:

There was some discussion regarding this amendment and was clarified by Mr. Fitzpatrick of NWE.

EXHIBIT (feh29a16)

Motion/Vote: REP. MENDENHALL moved that HB 417 BE AMENDED.
Motion carried 12-2 with REPRESENTATIVES BROWN and PARKER voting no.

EXHIBIT (feh29a17)

Motion/Vote: REP. OLSON moved that HB 417 DO PASS AS AMENDED.
Motion carried 10-4 with REPRESENTATIVES BROWN, CARNEY, MENDENHALL, and RYAN voting no by roll call vote.

EXECUTIVE ACTION ON HB 131

Motion/Vote: REP. BROWN moved that HB 131 BE TABLED. Motion carried 13-1 with REPRESENTATIVE SHOCKLEY voting no.

Note: Staffer, Mary Vandembosch, distributed a table of contents for HB 509 that was entered as exhibit number 18.

EXHIBIT (feh29a18)

ADJOURNMENT

Adjournment: 6:10 P.M.

REP. ROD BITNEY, Chairman

GLENNA MCCLURE, Secretary

RB/GM

EXHIBIT (feh29aad)